

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1123

Introduced by Business and Labor Committee:
Vrtiska, 1, Chairperson; Chambers, 11; Dierks, 40;
Hilgert, 7; Preister, 5; Redfield, 12; Schimek, 27

Read first time January 10, 2000

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend sections 48-302.01, 48-310,
2 and 48-446, Reissue Revised Statutes of Nebraska, and
3 section 48-303, Revised Statutes Supplement, 1999; to
4 change provisions relating to worker safety programs; and
5 to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-302.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 48-302.01. ~~Sections~~ Section 48-302 and 48-310 shall not
4 ~~be construed to~~ apply to the employment of any child:

5 (1) ~~Solely solely~~ as a caddy on any golf course or place
6 where golf is played; or

7 (2) Who is at least twelve but less than sixteen years of
8 age outside of school hours during the months of June, July, or
9 August, with the written consent of a parent of the child or person
10 standing in loco parentis to the child, in the removal of weeds,
11 off-type and rogue plants, and corn tassels, in hand pollinating,
12 and other engagement in hand labor in the production of seed.

13 Sec. 2. Section 48-303, Revised Statutes Supplement,
14 1999, is amended to read:

15 48-303. An employment certificate shall be approved only
16 by the superintendent of the primary high school district in which
17 the child resides or by a person authorized by him or her in
18 writing or, when there is no superintendent, by a person authorized
19 by the school district officers, except that no school district
20 officer or other person authorized by this section may approve such
21 certificate for any child then in or about to enter his or her own
22 employment or the employment of a firm or corporation of which he
23 or she is a member, officer, or employee or in whose business he or
24 she is interested. If a child does not attend school in Nebraska,
25 but seeks to work in Nebraska, the Department of Labor may approve
26 the employment certificate. The officer or person approving such
27 certificate may administer the oath provided for therein or in any
28 investigation or examination necessary for the approval thereof.

1 No fee shall be charged for approving any such certificate or for
2 administering any oath or rendering any services related thereto.
3 The school board or board of education of each school district
4 approving the employment certificate, or the department if the
5 department has approved the employment certificate, shall establish
6 and maintain proper records where copies of all such certificates
7 and all documents connected therewith shall be filed and preserved
8 and shall provide the necessary clerical services for carrying out
9 sections 48-302 to 48-313. The person who issued the employment
10 certificate shall report to the ~~Department of Labor~~ department any
11 complaint concerning the conditions of employment of a child for
12 whom a certificate is in force. Upon receipt of the report the
13 ~~Department of Labor~~ department shall make such investigation as it
14 deems advisable to protect an individual child or to promote the
15 youth-work program.

16 Sec. 3. Section 48-310, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 48-310. No person under the age of sixteen years shall
19 be employed or suffered to work in any employment as defined in
20 section 48-301 more than forty-eight hours in any one week, nor
21 more than eight hours in any one day, nor before the hour of 6 in
22 the morning, nor after the hour of 8 in the evening if the child is
23 under the age of fourteen, nor after the hour of 10 in the evening
24 if such child is between the ages of fourteen and sixteen. The
25 person issuing the work certificate may limit or extend the stated
26 hour in individual cases by endorsement on the certificate, except
27 a child shall only be permitted to work after the hour of 10 p.m.
28 if there is no school scheduled for the following day and, if he or

1 she is between fourteen and sixteen years of age, he or she has
2 consented to such extension by signing his or her name on the
3 endorsement extension, and his or her employer has obtained a
4 special permit from the Department of Labor. ~~The Department of~~
5 ~~Labor~~ department may issue a special permit to allow employment of
6 such child beyond 10 p.m. upon being satisfied, after inspection
7 of the working conditions, of ~~and~~ the safety, healthfulness, and
8 general welfare to the child of the business premises. The special
9 permit may be issued for periods not to exceed ninety days and may
10 be renewed. The department may require reinspection prior to the
11 renewal of the special permit. ~~only after reinspection.~~ The fee
12 for each permit or renewal shall be established by rule and
13 regulation of the Commissioner of Labor, and all money so collected
14 by the commissioner shall be remitted to the State Treasurer who
15 shall credit the funds to the General Fund. Every employer shall
16 post in a conspicuous place in every room where such children are
17 employed a printed notice stating the hours required of them each
18 day, the hours of commencing and stopping work, and the time
19 allowed for meals. The printed form of such notice shall be
20 furnished by the ~~Department of Labor~~ department.

21 Sec. 4. Section 48-446, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-446. (1) There is hereby created the Workplace Safety
24 Consultation Program. It is the intent of the Legislature that
25 such program help provide employees in Nebraska with safe and
26 healthful workplaces.

27 (2) Under the Workplace Safety Consultation Program, the
28 Department of Labor may conduct workplace inspections and

1 consultations to determine whether employers are complying with
2 standards issued by the federal Occupational Safety and Health
3 Administration or the federal Mine Safety and Health Administration
4 for safe and healthful workplaces. Workplace inspections and
5 safety consultations shall be performed by employees of the
6 Department of Labor who are knowledgeable and experienced in the
7 occupational safety and health field and who are trained in the
8 federal standards and in the recognition of safety and health
9 hazards. The Department of Labor may employ qualified persons as
10 may be necessary to carry out this section.

11 (3) All employers shall be subject to occupational safety
12 and health inspections covering their Nebraska operations.
13 Employers shall be selected by the Commissioner of Labor for
14 inspection on the basis of factors intended to identify the
15 likelihood of workplace injuries and to achieve the most efficient
16 utilization of safety personnel of the Department of Labor. Such
17 factors shall include:

18 (a) The amount of premium paid by the employer for
19 workers' compensation insurance;

20 (b) The experience modification produced by the
21 experience rating system referenced in section 44-5028;

22 (c) Whether the employer is covered by workers'
23 compensation insurance under section 48-146.01;

24 (d) The relative hazard of the employer's type of
25 business as evidenced by insurance rates or loss costs filed with
26 the Director of Insurance for the insurance rating classification
27 or classifications applicable to the employer;

28 (e) The nature, type, or frequency of accidents for the

1 employer as may be reported to the Department of Insurance, the
2 Nebraska Workers' Compensation Court, or the Department of Labor;

3 (f) Workplace hazards as may be reported to the
4 Department of Insurance, the Nebraska Workers' Compensation Court,
5 or the Department of Labor;

6 (g) Previous safety and health history;

7 (h) Possible employee exposure to toxic substances;

8 (i) Requests by employers for the Department of Labor to
9 inspect their workplaces or otherwise provide consulting services
10 on a basis by which the employer will reimburse the Department of
11 Labor; and

12 (j) All other relevant factors.

13 (4) Hazards identified by an inspection shall be
14 eliminated within a reasonable time as specified by the
15 Commissioner of Labor.

16 (5) An employer who refuses to eliminate workplace
17 hazards in compliance with an inspection shall be referred to the
18 federal Occupational Safety and Health Administration or the
19 federal Mine Safety and Health Administration for enforcement.

20 (6) At the discretion of the Commissioner of Labor,
21 inspection of an employer may be repeated to ensure compliance by
22 the employer, with the expenses incurred by the Department of Labor
23 to be paid by the employer.

24 (7) The Commissioner of Labor shall adopt and promulgate
25 rules and regulations establishing a schedule of fees for
26 consultations and inspections. Such fees shall be established with
27 due regard for the costs of administering the Workplace Safety
28 Consultation Program. The cost of consultations and inspections

1 shall be borne by each employer for which these services are
2 rendered.

3 (8) There is hereby created the Workplace Safety
4 Consultation Program Cash Fund. All fees collected pursuant to the
5 Workplace Safety Consultation Program shall be remitted to the
6 State Treasurer for credit to the fund and shall be used for the
7 sole purpose of administering the program. Any money in the fund
8 available for investment shall be invested by the state investment
9 officer pursuant to the Nebraska Capital Expansion Act and the
10 Nebraska State Funds Investment Act.

11 (9) Each employer provided a consultation or inspection
12 by the Department of Labor shall retain up-to-date records for each
13 place of employment as recommended by the inspection or
14 consultation. The employer shall make such records available to
15 the Department of Labor upon request to ensure continued progress
16 of the employer's efforts to comply with the federal Occupational
17 Safety and Health Administration or the federal Mine Safety and
18 Health Administration standards.

19 (10) Any person who knowingly operates or causes to be
20 operated a business in violation of recommendations to correct
21 serious or imminent hazards as identified by the Workplace Safety
22 Consultation Program shall be referred to the federal Occupational
23 Safety and Health Administration or the federal Mine Safety and
24 Health Administration.

25 (11) The Attorney General, acting on behalf of the
26 Commissioner of Labor, or the county attorney in a county in which
27 a business is located or operated may apply to the district court
28 for an order against any employer in violation of this section.

1 (12) The Workplace Safety Consultation Program shall not
2 be construed to alter the duty of care or the liability of an owner
3 or a business for injuries or death of any person or damage to any
4 property. The state and its officers and employees shall not be
5 construed to assume liability arising out of an accident involving
6 a business by reason of administration of the Workplace Safety
7 Consultation Program.

8 (13) Inspectors employed by the Department of Labor may
9 inspect any place of employment with or without notice during
10 normal hours of operation. Such inspectors may suspend the
11 operation of equipment determined to constitute an imminent danger
12 situation. Operation of such equipment shall not resume until the
13 hazardous or unsafe condition is corrected to the satisfaction of
14 the inspector.

15 (14) No person with a reasonable cause to believe the
16 truth of the information shall be subject to civil liability for
17 libel, slander, or any other relevant tort cause of action by
18 virtue of providing information without malice on workplace hazards
19 or the nature, type, or frequency of accidents to the Department of
20 Insurance, the Nebraska Workers' Compensation Court, or the
21 Department of Labor.

22 (15) Safety and health inspectors employed by the
23 Department of Labor shall have the right and power to enter any
24 premise, building, or structure, public or private, for the purpose
25 of inspecting any work area or equipment. A refusal by the
26 employer of entry by a safety and health inspector employed by the
27 Department of Labor shall be a violation of this subsection. If
28 the Commissioner of Labor finds, after notice and hearing, that an

1 employer has violated this subsection, he or she may order payment
2 of a civil penalty of not more than one thousand dollars for each
3 violation. Each day of continued violation shall constitute a
4 separate violation.

5 (16) The Commissioner of Labor shall adopt and promulgate
6 rules and regulations to carry out this section.

7 Sec. 5. Original sections 48-302.01, 48-310, and 48-446,
8 Reissue Revised Statutes of Nebraska, and section 48-303, Revised
9 Statutes Supplement, 1999, are repealed.